

Remarks/Arguments

I. STATUS OF THE CLAIMS

Claims 1-11, 16-18, 21-25, 27-31, 55-57, 61-63 and 66-71 are pending in the application. Claims 1, 31, 55, 67, and 71 are amended herein. Support for the amendments can be found, *inter alia*, at page 13, paragraph [0037] of the specification. The amendments do not add new matter.

II. FORMAL DRAWINGS

The Examiner is respectfully requested to confirm that the drawings as filed on February 13, 2006 with the Application are acceptable.

III. REJECTIONS UNDER 35 U.S.C. 103

Claims 1-11, 16-18, 21-25, 27-31, 55-57, 61-63 and 66-71 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Jones (WO 95/02049) (“Jones”) in view of Nieuwkerk *et al.* (U.S. Patent No. 5,438,128) (“Nieuwkerk”) (Office Action, page 5.) Applicants respectfully disagree but have amended claims to facilitate prosecution.

The Examiner asserts that it would have been *prima facie* obvious to improve the method of isolating nucleic acids from cell lysate by using the filter apparatus as taught by Jones to include multiple layer filter bed of filters housed within the same column as taught by Nieuwkerk (Office Action, page 6). The Examiner further notes that the claims do not exclude the target nucleic acid from binding to any filter (Office Action, page 7).

Applicants have amended independent claims 1, 31, 55, 67 and 71 to recite, in part, that “said second filter layer does not bind said biological macromolecules ~~allows~~ thereby allowing said biological macromolecules to pass.” As discussed in the reply filed April 1, 2011, Jones passes the target molecule (e.g.: DNA) through the first filter, but NOT through the second filter. That is, Jones binds the target molecule to the second matrix (instead of passing it through like the instantly claimed invention) and it is further noted that the methods taught by Jones necessarily include an elution step. For example see page 3, fourth full paragraph of Jones. The present claims are directed, in part, to methods where biological macromolecules are isolated

without an elution step. Therefore, all of the elements of the present claims are not taught or suggested by the cited art and a *prima facie* case of obviousness has not been established.

In view of the above, Applicants respectfully request reconsideration and withdrawal of the rejections under 35 U.S.C. 103(a).

CONCLUSION

The extendable due date for response to the instant Office Action, under a three-month shortened statutory period, is September 21, 2011. Applicants do not believe that any additional fees are due in connection with this Response. However, in the unlikely event that any such fees are due, the Commissioner is hereby authorized to charge the same to Deposit Account No. 50-3994, with reference to our matter IVGN 261. This is not an authorization to pay the issue fee.

Applicants respectfully request that this paper be entered. Applicants believe that a full and complete reply has been made to the outstanding Office Action and, as such, the present application and the pending claims as amended are now in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Respectfully submitted,

/Peter Foiles/

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